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Supreme Court Stays Trial Court Order on Exit Exam; Sends Case to Court of Appeal for Further Action

San Francisco—The California Supreme Court today issued an order that grants a request by the Department of Education to stay a lower court order blocking the requirement that public school students pass a high school exit exam in order to graduate. (*O'Connell v. Superior Court (Valenzuela)*), S143543.

In addition, the state high court also acted on the Department of Education's request for a writ of mandate, by issuing an “order to show cause” and sending the case to the state Court of Appeal, First Appellate District (San Francisco), for further action.

The high court's action means that the lower court order is no longer effective – and the exit exam requirement is reinstated – until the Court of Appeal takes further action.

The Supreme Court issued the order as part of its weekly petition conference in San Francisco, where the justices considered more than 200 other matters that sought the court's review or requested the court to take other action.

The order issuing the order to show cause was signed by Chief Justice Ronald M. George and Justices Joyce L. Kennard, Marvin R. Baxter, Ming W. Chin, and Carol A. Corrigan, but Justice Kennard would not have stayed the trial court's order. Justices Werdegar and Moreno voted to deny the stay and would not have issued the order to show cause.

A copy of the court's order is attached.

For further information about the case, including attorneys of record, see the Supreme Court's online case information system at:
http://appellatecases.courtinfo.ca.gov/search/case/mainCaseScreen.cfm?dist=0&doc_id=423614&doc_no=S143543.

S143543
JCCP 4468
IN THE SUPREME COURT OF CALIFORNIA
En Banc

JACK O'CONNELL, as Superintendent of Public Instruction, etc. et al., Petitioners,

v.

SUPERIOR COURT OF ALAMEDA COUNTY, Respondent;
LILIANA VALENZUELA et al., Real Parties in Interest.

Respondent and real parties in interest are ordered to show cause before the Court of Appeal, First Appellate District, why the relief sought in the petition for writ of mandate should not issue. Because at this juncture this court is not persuaded that the relief granted by the trial court's preliminary injunction — which would require school districts to grant high school diplomas to students despite the students' failure to pass the California High School Exit Exam — would be an appropriate remedy even if plaintiffs were to prevail in their underlying claims, the injunction issued by the trial court in its order of May 12, 2006, is stayed pending the Court of Appeal's determination of this writ proceeding. This stay does not preclude the trial court from conducting further proceedings in the underlying matter during the pendency of the writ proceeding in the Court of Appeal.

Upon receipt of this writ proceeding, the Court of Appeal is directed to establish a schedule for expedited briefing and argument.

Kennard, J. joins in the above order except that she would deny petitioners' application for a stay.

Werdegar, J., and Moreno, J., would deny the petition for writ of mandate and would deny the application for a stay with the understanding that pursuant to the trial court's order, the injunction does not prohibit petitioners from requiring the school districts to annotate a diploma to report a student's status as having passed or not passed all portions of the California High School Exit Exam.

George
Chief Justice

Kennard
Associate Justice

Baxter
Associate Justice

Associate Justice

Chin
Associate Justice

Associate Justice

Corrigan
Associate Justice